

HAMILTON BOARD OF HEALTH

WEDNESDAY, DECEMBER 11, 2013

Present: Board of Health members: Lindle Willnow, Susan Wilfahrt, Karen Zagorski, and Health Agent Leslie Whelan.

Meeting Opened: Lindle Willnow called the meeting to order at 7:05 p.m. at Hamilton Town Hall

Discussion – 84 Old Cart Road, Animal/Barn Application

Health Agent Leslie Whelan referred to email correspondence from applicant who is not meeting regulations about keeping animals at property on 84 Old Cart Road and that the permit would not be issued without variances. She summarized that the applicant was asked to identify where variances would be needed to meet code and to date the applicant has been unable to do that. Therefore, Whelan created an application to assist applicant with compliance. The applicant attempted to complete this application and sent an email to Whelan outlining where he wanted variances from the code but he did not sufficiently complete application.

Discussion ensued about communication between Lindle Willnow and Whelan related to Health Department's course of action including that applicant could be sent a letter saying the applicant's permit is denied. Whelan has not had time to write this letter and plans to do so. Discussion also addressed how there are wetlands on the property and there is a Zoning Board of Appeals variance requirement as well (i.e., two acre requirement cannot be met).

Conservation Commission Coordinator Jim Hankin described how the animal keeping activities are too close to the wetland line but it is a minor incursion with a fence, and it would be preferred that the two pre-existing structures being used for animals be 25 feet from wetlands. He noted that the Conservation Commission tabled this matter waiting to see what Board of Health would do regarding regulating keeping of animals. Hankin mentioned that this is a small property. He said the Commission would work with the applicant depending upon the Board of Health's decision.

Discussion ensued about how it is not the Board's or Health Department's responsibility to complete the application for the applicant. Whelan explained that the application had been discussed with the applicant when he visited the

Health Department office. She noted that the applicant expressed belief that the right to farm by-law applied in this situation. Discussion addressed how it was the applicant's responsibility to seek variances and permit to comply. Willnow suggested that the property owner should be notified that the permit is denied and animals would be removed by animal control.

Whelan referred to the authority the Board has to deny the permit according to M.G.L. compared to local regulation that had two typographical errors and spoke specifically to stables. Willnow mentioned review of section that refers to enforcement that addresses cruelty to animals and regulation relative to the Board denying the permit. Discussion addressed that this public hearing has been advertised and that the Board of Health could fine the applicant a penalty of \$200 a day.

Discussion was about how animal waste has to be kept in a plastic bin and that area has to be drained well and the Old Cart Road property is poorly drained or mucky due to abutting wetlands. Willnow suggested that it is clear that the application should be denied and requested Whelan highlight areas in the regulation that have to be addressed by the applicant and suggested mention in the letter to the applicant that the applicant will be held in violation and subject to \$200 a day fine.

Willnow moved that the Board of Health make the corrections in the regulation as noted. Susan Wilfahrt seconded the motion. VOTE: Unanimous.

Discussion ensued about how Board would need to understand all of the ways that the current use of the Old Cart Road property does not comply with the regulation, that the neighbors should have an opportunity to weigh in on the situation before variances are issued, and the property owner would have to develop a mitigation plan relative to the variances.

Discussion addressed how the property owners are recent residents and may not be aware of recent experiences with flooding. Also mentioned was how there may be too many variances required to allow the Board of Health to approve the request. The Board reiterated that the applicant needs to identify how his situation does not meet the code, how he plans to address this and he must create a mitigation plan. The Board agreed to give the applicant until its next meeting to complete an application that is vetted by the Health Agent.

Discussion ensued about what would occur if the Board of Health imposed the penalty and that a court process could be required to collect fine, what process would animal control officer use to remove animals and if property owner should be informed to cease and desist. Whelan agreed to get letter on matter to the property owner.

Discussion – Covers @ Grade Regulation

Willnow suggested the Board table this discussion until next month when he has time to review the regulation. Whelan noted that the way the regulation is written would require more staff than there is currently in the Health Department to oversee compliance.

Discussion – Bat Houses

Whelan reiterated Board's prior discussion about a man in Amesbury who builds bat houses for \$35 each. She summarized her research about the detail associated with successful bat houses including color, location, amount of sunlight, and she recommended the bat houses should meet the current state-of-art design defined by Bat Conservation International organization.

Discussion ensued about communication with HW Joint Recreation Board and Recreation Director Sean Timmons about installing bat houses in Town parks and if Recreation Department funding could be used. Whelan suggested she could review the bat houses constructed by the Amesbury man to see if they meet the aforementioned criteria. Willnow spoke to the importance of location for the bat houses to be successful and the need for review of Town parks for possible locations. Wilfahrt suggested the bat houses be located near where people congregate and that people would likely be interested in contributing to the cost of bat houses. Discussion ensued about how they could be installed on high posts but this could prove expensive to do.

Willnow offered to contact Timmons about if he and any Recreation Board members would visit Town parks to identify and understand potential locations for bat houses (i.e., Patton Park and HW Regional High School). He also asked Whelan to contact Amesbury man for a similar review of potential sites in Town.

Review – Minutes dated September 25, 2013

The Board reviewed the minutes and provided amendments. Willnow moved that the Board accept the September 25, 2013 minutes as amended. Karen Zagorski seconded the motion. VOTE: Unanimous.

The Board briefly discussed details with Whelan about three local upgrade approvals.

Meeting Adjourned:

Willnow moved at 7:55 p.m. to adjourn. Wilfahrt seconded motion. VOTE: Unanimous. The Board's next meeting is on Wednesday, January 15 at 7 p.m.

ATTEST:

cc: Selectmen, Planning Board, Town Clerk, Conservation